IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc. No.25291-M of 2005
Date of Decision:- 15.1.2007

Lehmber Singh ....Petitioner(s)

through
Mr.A.K.Walia, Advocate

vs.

The State of Punjab ....Respondent(s)

through
Mr.B.S.Baath, AAG, Punjab.
Mr.Palwinder Singh, Advocate.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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SURYA KANT, J.

The prayer in this petition is for quashing of F.I.R.No.48 dated 7.6.2004 under Section 406/420 IPC registered at Police Station, Kartarpur, District Jalandhar.

As per the allegations contained in the F.I.R, the complainant allegedly paid a sum of Rs.13 lacs to the petitioner, his parents and one or two more persons for sending him abroad. However, neither he was sent abroad nor the money returned to him.

After investigation, the police has already presented a challan under Section 173 Cr.P.C. and the petitioner is stated to have been declared as a proclaimed offender.

The quashing of the F.I.R. is sought by the petitioner primarily on the ground that as per the entry made in his passport, he has never visited India after the year 1995, therefore, the allegation of the complainant that he paid Rs.13 lacs to various persons including the petitioner for being sent abroad are totally false and not supported by any evidence. Reliance has also been placed upon some alleged compromise deed dated 2.2.2004 in

which it is admitted that the petitioner was not the person to whom the amount was paid.

Alternatively, learned counsel for the petitioner seeks a direction that the petitioner's version to the extent that he has never visited India after the year 1995, should be reverified by the Investigating Agency and if found correct, a supplementary report in terms of Section 173 (8) Cr.P.C. be presented.

On the other hand, the petitioner's prayer is being opposed by learned State counsel mainly on the ground that he has already been declared as a proclaimed offender.

After hearing learned counsel for the parties and having regard to the positive stand taken by learned counsel for the petitioner that he has never visited India after the year 1995, this petition is disposed of with the following directions:

(i) the petitioner, if so desires, may visit India and surrender before the learned trial Court on or before February 15, 2007; and

(ii) while surrendering before the learned trial Court, the petitioner shall deposit his original passport and shall also furnish the adequate bail bonds to the satisfaction of the trial Court upon which he will be admitted to interim bail.

The petitioner thereafter may move an application before the learned trial Court for issuing appropriate directions to the Investigating Officer of the case concerned to conduct further investigation under Section 173 (8) Cr.P.C. in the light of the stand taken by him in the present petition and if any such application is moved by him, the learned trial Court shall

issue appropriate directions and get the matter investigated further, within a period of one month from the date of moving such an application by him.

Disposed of.

January 15, 2007 **(SURYA KANT)**
poonam **JUDGE**